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8 UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF) Case No. CR 95-622-RSWL
11 AMERICA,)
12 Plaintiff,) ORDER RE: REDUCTION OF
13) SENTENCE PURSUANT TO 18
14 v.) U.S.C. § 3582(C)(2)
15 BRIAN KEITH DAVIS,)
Defendant.)

16 **GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED,**
17 pursuant to 18 U.S.C. § 3582(c)(2) and § 1B1.10 of the
18 sentencing guidelines (as effective March 3, 2008),
19 that defendant's sentence shall be reduced from 262
20 months imprisonment to 210 months imprisonment, with
21 all other conditions of defendant's previously imposed
22 sentence to remain the same.

23 **IT IS FURTHER ORDERED** that this order shall be void
24 and without effect if, at any time prior to defendant's
25 release, either the Sentencing Commission or Congress
26 takes action that renders Amendment 706 to the
27 sentencing guidelines no longer retroactive in
28 application.

1 The Court recognizes that, based on the applicable
2 case law, a hearing is not necessary in order to reduce
3 defendant's sentence under 18 U.S.C. § 3582(c)(2).
4 See, e.g., Anderson v. United States, 241 Fed. Appx.
5 625, 629 (11th Cir. July 18, 2007) (unpublished)
6 ("Under Federal Rule of Criminal Procedure 43(b)(4), a
7 defendant's presence at a § 3582(c) sentence correction
8 proceeding is not required") (emphasis in original);
9 United States v. Legree, 205 F.3d 724, 730 (4th Cir.
10 2000) ("a judge need not hold a hearing when
11 considering a Section 3582 motion"); United States v.
12 Tidwell, 178 F.3d 946, 949 (7th Cir. 1999) (same,
13 noting that "a proceeding under 18 U.S.C. § 3582(c) is
14 not a do-over of an original sentencing proceeding
15 where a defendant is cloaked in rights mandated by
16 statutory law and the Constitution"); United States v.
17 Whitebird, 55 F.3d 1007, 1011 (5th Cir. 1995) (limited
18 scope of a Section 3582 proceeding, which is "not a
19 second opportunity to present mitigating factors to the
20 sentencing judge" but "is simply a vehicle through
21 which appropriately sentenced prisoners can urge the
22 court to exercise leniency to give certain defendants
23 the benefits of an amendment to the Guidelines").

24 **IT IS SO ORDERED.**



25
26 **HONORABLE RONALD S.W. LEW**

27 Senior, U.S. District Court Judge

28 DATE: April 30, 2008